

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 24, 2003**

**IN RE:**

**PETITION FOR APPROVAL OF  
AMENDMENT TO INTERCONNECTION  
AGREEMENT BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
ITC^DELTA COM COMMUNICATIONS,  
INC.**

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**DOCKET NO. 03-00497**

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**ORDER APPROVING  
THIRD AMENDMENT TO INTERCONNECTION AGREEMENT**

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This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 21, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and ITC^DeltaCom Communications, Inc. d/b/a Grapevine.<sup>1</sup>

The original interconnection agreement between these parties was filed on April 25, 2001, under Docket No. 99-00430. The parties filed corrections to the original interconnection agreement on June 20, 2001,<sup>2</sup> and it was approved at a regularly scheduled Authority Conference

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<sup>1</sup> See *In re: Petition of ITC^DeltaCom Communications, Inc. to Adopt the d/b/a "Grapevine,"* Docket No. 03-00216, *Order Granting Approval of the Petition of ITC^DeltaCom to Adopt the d/b/a "Grapevine"* (April 7, 2003).

<sup>2</sup> The June 20, 2001 filing contained pagination errors. BellSouth Telecommunications, Inc. and ITC^DeltaCom Communications, Inc. corrected these errors on June 21, 2001, by filing correctly numbered pages.

on June 26, 2001. The first set of amendments was filed on January 29, 2002, under Docket No. 03-00074 and was approved at a regularly scheduled Authority Conference on March 17, 2003. The second amendment was filed on July 2, 2003, under Docket No. 03-00426 and was approved at a regularly scheduled Authority Conference on August 4, 2003. The third amendment, which is the subject of this docket, was filed on September 4, 2003.

Based upon a review of the third amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>3</sup> Thus, although the Authority finds that neither ground for rejection

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<sup>3</sup> See 47 U.S.C. § 252(e)(2)(B).

of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

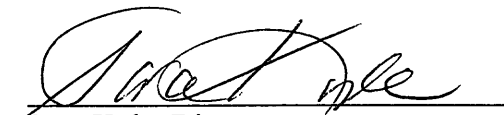
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and ITC^DeltaCom Communications, Inc. d/b/a Grapevine is approved and is subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Chairman

  
Pat Miller, Director

  
Sara Kyle, Director